

JUN 11 2009

MEMORANDUM

FROM: William C. Early, Acting Regional Administrator
U.S. Environmental Protection Agency, Region III

L. Preston Bryant, Secretary of Natural Resources
Commonwealth of Virginia

TO: Members, Principals' Staff Committee

SUBJECT: Consultation on Executive Order 13508 on Chesapeake Bay Protection and Restoration (May 12, 2009)

President Obama's Executive Order on Chesapeake Bay Protection and Restoration has created a truly historic opportunity to make tremendous progress toward the goal of a restored Chesapeake Bay. Under Executive Order 13508, the U.S. Environmental Protection Agency (EPA) is among the Federal agencies that will be exerting renewed leadership in the weeks, months and years ahead.

EPA recognizes that the task is challenging and that the involvement and support of its partners in the Chesapeake Bay Program will be essential to success. This tenet is embedded in the Executive Order, which directs the Federal agencies to "consult extensively" with its State partners in the Chesapeake Bay Program.

As outlined in the Executive Order, the EPA and other Federal agencies have 120 days (by September 12, 2009) to submit draft reports to the Federal Leadership Committee that detail how to advance restoration and protection of the Chesapeake Bay. Final reports must then be provided within 180 days (by November 12, 2009) for integration into a coordinated strategy for protecting and restoring the Chesapeake Bay.

As part of the "extensive consultation with the states" required by Executive Order 13508, EPA will employ several methods and forums to ensure this occurs. The Principals' Staff Committee (PSC) is a key forum for this consultation during the development of EPA's draft and final reports as well as the overall integrated strategy. This consultation will build upon the pledge that EPA Administrator Lisa Jackson made in letters she sent to each of the Chesapeake Executive Council members on June 5 to work closely with each Council member and their staffs to implement the Executive Order (See Attachment). The goal of these consultations is to share preliminary ideas early in the process and to get feedback from the PSC as we develop the draft and final reports and strategy over the next year. EPA envisions this consultation occurring through a series of meetings and forums with PSC members to include:

Initial Ideas – next 30 days: This first phase of consultation would be designed to gather ideas early in the process from PSC members on how to advance the restoration effort and determine how the Federal government could assist the states in implementation of these ideas. There has already been a briefing of Region 3 State Water Directors at a meeting earlier this month. EPA will schedule state by state meetings with PSC members enabling key managers and senior staff an opportunity for input to evolving strategies.

- **Proposal Sharing – before 120 days (September 12, 2009):** EPA would like to meet with PSC members at our next scheduled full PSC meeting in late July to share preliminary ideas under consideration for inclusion in our draft reports due at 120 days. This would provide the opportunity for PSC feedback prior to submission to the Federal Leadership Committee.
- **Draft Report – after 120 days (September 12, 2009):** After the draft reports are submitted to the Federal Leadership Committee by September 12, 2009, the EPA will formally consult with PSC members. EPA will use this consultation to incorporate appropriate revisions prior to releasing the draft reports as well as the coordinated implementation strategy for broader public review at 180 days. The Chesapeake Bay Program Goal Implementation Teams will also be providing substantial input into the development of the strategy required by Executive Order 13508.
- **Final Reports/Draft Strategy – after 180 days (November 12, 2009):** Once the final reports have been merged into a draft strategy for achieving the objectives of the Executive Order, the EPA will again consult with PSC members. This will occur before the completion of a final strategy, which is required within one year (May 12, 2010) around the time of the next annual Chesapeake Executive Council Meeting.

The exact time, location and format for these consultations is yet to be determined, but there could be opportunities for overlap with scheduled PSC meetings and Chesapeake Bay Program events. Meetings may also be set up individually with jurisdictions. EPA officials will work directly with the PSC members to set up an effective series of meetings with members. The PSC hopes to have similar consultations with other lead Federal agencies in the development of their respective reports and the strategy as well.

To help frame discussions, the Chesapeake Bay Program Office has already begun a preliminary analysis of the on-the-ground actions that will be needed to achieve the partnership's restoration goals by 2025 or earlier. The results of this analysis will be shared with PSC members.

As all of us know, restoring and protecting the Chesapeake Bay, what President Obama has declared a national treasure, will require a collective effort, strong leadership and decisive action. Through these consultations and all of our hard work, we can succeed in achieving our common goal of a healthy Bay and watershed. Please contact Jeff Lape, Director, Chesapeake Bay Program Office at (410) 267-5709, or Jeff Corbin, Virginia Assistant Secretary of Natural Resources at (804) 786-0044, if you have any questions regarding these consultations on E.O. 13508.

Attachment

cc: J. Charles Fox, Senior Advisor to the Administrator
Mike Shapiro, Assistant Administrator for Water
James Newsom, Acting Deputy Regional Administrator, Region III
Jeff Lape, Director, Chesapeake Bay Program Office
Jon Capacasa, Director, Water Protection Division, Region III
Mario Delvicario, EPA Region II
Jeff Corbin, Assistant Secretary of Natural Resources, Virginia
CBP Management Board



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN 5 2009

THE ADMINISTRATOR

The Honorable Timothy Kaine
Commonwealth of Virginia
Office of the Governor
Patrick Henry Building, 3rd Floor
111 East Broad Street
Richmond, Virginia 23219

Dear Governor Kaine:

As you know, on May 12, 2009, President Obama signed Executive Order 13508, *Chesapeake Bay Protection and Restoration* (please see Enclosure 1). We at the U.S. Environmental Protection Agency are very excited about this Order, which begins a new era of shared federal leadership, in close collaboration with you and other state partners, for protecting and restoring the health, heritage, natural resources, and social and economic value of the Chesapeake Bay. Your support and encouragement played a critical role in shaping the Order, and I am looking forward to a continued close partnership as we implement the Order's directives.

The new Executive Order calls for an unparalleled collaboration between federal and state agencies and departments with unique skills and tools for restoring the health of the Bay. Its directives include:

- a new commitment to coordinated planning and management for the Bay;
- targeting Department of Agriculture and Clean Water Act resources toward restoring the Bay;
- addressing the impacts of a changing climate on the Bay;
- better management of federal lands and facilities to protect the Bay;
- expanded opportunities for public access to Bay waters;
- stronger environmental monitoring in the Bay; and
- extensive collaboration with state partners.

To carry out these responsibilities, the Order designates me to chair a new "Federal Leadership Committee." The Committee must immediately begin work. Within 120 days (by September 9, 2009), EPA and the Departments of Agriculture, Defense, Commerce, and Interior must lead or co-lead development of seven draft reports on "key challenges to protecting and restoring the Chesapeake Bay" (see Section 202 in Enclosure 1). Within another 60 days (by

the Federal Leadership Committee must publish a draft strategy for coordinated implementation of existing programs and projects to protect and restore the Bay. Within one year, the Committee must publish a final strategy. The President directs us to begin implementing core elements of our programs and strategies as soon as possible and prior to release of a final strategy.

The Executive Order enumerates additional responsibilities for the Committee and for EPA and named Departments (see Parts 2-9 in Enclosure 1). In particular, in Section 204, "Collaboration with State Partners," the Order directs the Federal Leadership Committee to consult extensively with the Chesapeake Bay States and the District of Columbia. As a former state official, I know that federal/state collaboration is vital to the success of our effort. I pledge that I and my staff will work closely with you to implement this Order.

For your consideration, I have attached several memoranda to other federal departments, and to EPA's senior leadership outlining how I intend to implement the Executive Order.

Over the next several years, we have an opportunity to renew our long-standing commitment to the health of the Chesapeake Bay and get back on track toward restoring the Bay in the near-term. I look forward to working with you and your staff as the Federal Leadership Committee moves forward with these challenging tasks.

Sincerely,



Lisa P. Jackson

Enclosures

1. Executive Order 13508, *Chesapeake Bay Protection and Restoration*
2. Memorandum to Department Secretaries, "Designating a Senior Representative to Implement Executive Order 13508, *Chesapeake Bay Protection and Restoration*"
3. Memorandum to EPA Assistant Administrators, Assistant Administrators and Acting Region 3 Administrator, "Implementing the President's New Executive Order on Chesapeake Bay"





Federal Register

Friday,
May 15, 2009

Part IV

The President

Executive Order 13508—Chesapeake Bay
Protection and Restoration

Presidential Documents

Title 3—

Executive Order 13508 of May 12, 2009

The President

Chesapeake Bay Protection and Restoration

By the authority vested in me as President by the Constitution and the laws of the United States of America and in furtherance of the purposes of the Clean Water Act of 1972, as amended (33 U.S.C. 1251 *et seq.*), and other laws, and to protect and restore the health, heritage, natural resources, and social and economic value of the Nation's largest estuarine ecosystem and the natural sustainability of its watershed, it is hereby ordered as follows:

PART 1—PREAMBLE

The Chesapeake Bay is a national treasure constituting the largest estuary in the United States and one of the largest and most biologically productive estuaries in the world. The Federal Government has nationally significant assets in the Chesapeake Bay and its watershed in the form of public lands, facilities, military installations, parks, forests, wildlife refuges, monuments, and museums.

Despite significant efforts by Federal, State, and local governments and other interested parties, water pollution in the Chesapeake Bay prevents the attainment of existing State water quality standards and the “fishable and swimmable” goals of the Clean Water Act. At the current level and scope of pollution control within the Chesapeake Bay's watershed, restoration of the Chesapeake Bay is not expected for many years. The pollutants that are largely responsible for pollution of the Chesapeake Bay are nutrients, in the form of nitrogen and phosphorus, and sediment. These pollutants come from many sources, including sewage treatment plants, city streets, development sites, agricultural operations, and deposition from the air onto the waters of the Chesapeake Bay and the lands of the watershed.

Restoration of the health of the Chesapeake Bay will require a renewed commitment to controlling pollution from all sources as well as protecting and restoring habitat and living resources, conserving lands, and improving management of natural resources, all of which contribute to improved water quality and ecosystem health. The Federal Government should lead this effort. Executive departments and agencies (agencies), working in collaboration, can use their expertise and resources to contribute significantly to improving the health of the Chesapeake Bay. Progress in restoring the Chesapeake Bay also will depend on the support of State and local governments, the enterprise of the private sector, and the stewardship provided to the Chesapeake Bay by all the people who make this region their home.

PART 2—SHARED FEDERAL LEADERSHIP, PLANNING, AND ACCOUNTABILITY

Sec. 201. *Federal Leadership Committee.* In order to begin a new era of shared Federal leadership with respect to the protection and restoration of the Chesapeake Bay, a Federal Leadership Committee (Committee) for the Chesapeake Bay is established to oversee the development and coordination of programs and activities, including data management and reporting, of agencies participating in protection and restoration of the Chesapeake Bay. The Committee shall manage the development of strategies and program plans for the watershed and ecosystem of the Chesapeake Bay and oversee their implementation. The Committee shall be chaired by the Administrator of the Environmental Protection Agency (EPA), or the Administrator's designee, and include senior representatives of the Departments of Agriculture

(USDA), Commerce (DOC), Defense (DOD), Homeland Security (DHS), the Interior (DOI), Transportation (DOT), and such other agencies as determined by the Committee. Representatives serving on the Committee shall be officers of the United States.

Sec. 202. *Reports on Key Challenges to Protecting and Restoring the Chesapeake Bay.* Within 120 days from the date of this order, the agencies identified in this section as the lead agencies shall prepare and submit draft reports to the Committee making recommendations for accomplishing the following steps to protect and restore the Chesapeake Bay:

(a) define the next generation of tools and actions to restore water quality in the Chesapeake Bay and describe the changes to be made to regulations, programs, and policies to implement these actions;

(b) target resources to better protect the Chesapeake Bay and its tributary waters, including resources under the Food Security Act of 1985 as amended, the Clean Water Act, and other laws;

(c) strengthen storm water management practices at Federal facilities and on Federal lands within the Chesapeake Bay watershed and develop storm water best practices guidance;

(d) assess the impacts of a changing climate on the Chesapeake Bay and develop a strategy for adapting natural resource programs and public infrastructure to the impacts of a changing climate on water quality and living resources of the Chesapeake Bay watershed;

(e) expand public access to waters and open spaces of the Chesapeake Bay and its tributaries from Federal lands and conserve landscapes and ecosystems of the Chesapeake Bay watershed;

(f) strengthen scientific support for decisionmaking to restore the Chesapeake Bay and its watershed, including expanded environmental research and monitoring and observing systems; and

(g) develop focused and coordinated habitat and research activities that protect and restore living resources and water quality of the Chesapeake Bay and its watershed.

The EPA shall be the lead agency for subsection (a) of this section and the development of the storm water best practices guide under subsection (c). The USDA shall be the lead agency for subsection (b). The DOD shall lead on storm water management practices at Federal facilities and on Federal lands under subsection (c). The DOI and the DOC shall share the lead on subsections (d), (f), and (g), and the DOI shall be lead on subsection (e). The lead agencies shall provide final reports to the Committee within 180 days of the date of this order.

Sec. 203. *Strategy for Protecting and Restoring the Chesapeake Bay.* The Committee shall prepare and publish a strategy for coordinated implementation of existing programs and projects to guide efforts to protect and restore the Chesapeake Bay. The strategy shall, to the extent permitted by law:

(a) define environmental goals for the Chesapeake Bay and describe milestones for making progress toward attainment of these goals;

(b) identify key measureable indicators of environmental condition and changes that are critical to effective Federal leadership;

(c) describe the specific programs and strategies to be implemented, including the programs and strategies described in draft reports developed under section 202 of this order;

(d) identify the mechanisms that will assure that governmental and other activities, including data collection and distribution, are coordinated and effective, relying on existing mechanisms where appropriate; and

(e) describe a process for the implementation of adaptive management principles, including a periodic evaluation of protection and restoration activities.

The Committee shall review the draft reports submitted by lead agencies under section 202 of this order and, in consultation with relevant State agencies, suggest appropriate revisions to the agency that provided the draft report. It shall then integrate these reports into a coordinated strategy for restoration and protection of the Chesapeake Bay consistent with the requirements of this order. Together with the final reports prepared by the lead agencies, the draft strategy shall be published for public review and comment within 180 days of the date of this order and a final strategy shall be published within 1 year. To the extent practicable and authorized under their existing authorities, agencies may begin implementing core elements of restoration and protection programs and strategies, in consultation with the Committee, as soon as possible and prior to release of a final strategy.

Sec. 204. *Collaboration with State Partners.* In preparing the reports under section 202 and the strategy under section 203, the lead agencies and the Committee shall consult extensively with the States of Virginia, Maryland, Pennsylvania, West Virginia, New York, and Delaware and the District of Columbia. The goal of this consultation is to ensure that Federal actions to protect and restore the Chesapeake Bay are closely coordinated with actions by State and local agencies in the watershed and that the resources, authorities, and expertise of Federal, State, and local agencies are used as efficiently as possible for the benefit of the Chesapeake Bay's water quality and ecosystem and habitat health and viability.

Sec. 205. *Annual Action Plan and Progress Report.* Beginning in 2010, the Committee shall publish an annual Chesapeake Bay Action Plan (Action Plan) describing how Federal funding proposed in the President's Budget will be used to protect and restore the Chesapeake Bay during the upcoming fiscal year. This plan will be accompanied by an Annual Progress Report reviewing indicators of environmental conditions in the Chesapeake Bay, assessing implementation of the Action Plan during the preceding fiscal year, and recommending steps to improve progress in restoring and protecting the Chesapeake Bay. The Committee shall consult with stakeholders (including relevant State agencies) and members of the public in developing the Action Plan and Annual Progress Report.

Sec. 206. *Strengthen Accountability.* The Committee, in collaboration with State agencies, shall ensure that an independent evaluator periodically reports to the Committee on progress toward meeting the goals of this order. The Committee shall ensure that all program evaluation reports, including data on practice or system implementation and maintenance funded through agency programs, as appropriate, are made available to the public by posting on a website maintained by the Chair of the Committee.

PART 3—RESTORE CHESAPEAKE BAY WATER QUALITY

Sec. 301. *Water Pollution Control Strategies.* In preparing the report required by subsection 202(a) of this order, the Administrator of the EPA (Administrator) shall, after consulting with appropriate State agencies, examine how to make full use of its authorities under the Clean Water Act to protect and restore the Chesapeake Bay and its tributary waters and, as appropriate, shall consider revising any guidance and regulations. The Administrator shall identify pollution control strategies and actions authorized by the EPA's existing authorities to restore the Chesapeake Bay that:

- (a) establish a clear path to meeting, as expeditiously as practicable, water quality and environmental restoration goals for the Chesapeake Bay;
- (b) are based on sound science and reflect adaptive management principles;
- (c) are performance oriented and publicly accountable;
- (d) apply innovative and cost-effective pollution control measures;
- (e) can be replicated in efforts to protect other bodies of water, where appropriate; and
- (f) build on the strengths and expertise of Federal, State, and local governments, the private sector, and citizen organizations.

Sec. 302. *Elements of EPA Reports.* The strategies and actions identified by the Administrator of the EPA in preparing the report under subsection 202(a) shall include, to the extent permitted by law:

(a) using Clean Water Act tools, including strengthening existing permit programs and extending coverage where appropriate;

(b) establishing new, minimum standards of performance where appropriate, including:

(i) establishing a schedule for the implementation of key actions in cooperation with States, local governments, and others;

(ii) constructing watershed-based frameworks that assign pollution reduction responsibilities to pollution sources and maximize the reliability and cost-effectiveness of pollution reduction programs; and

(iii) implementing a compliance and enforcement strategy.

PART 4—AGRICULTURAL PRACTICES TO PROTECT THE CHESAPEAKE BAY

Sec. 401. In developing recommendations for focusing resources to protect the Chesapeake Bay in the report required by subsection 202(b) of this order, the Secretary of Agriculture shall, as appropriate, concentrate the USDA's working lands and land retirement programs within priority watersheds in counties in the Chesapeake Bay watershed. These programs should apply priority conservation practices that most efficiently reduce nutrient and sediment loads to the Chesapeake Bay, as identified by USDA and EPA data and scientific analysis. The Secretary of Agriculture shall work with State agriculture and conservation agencies in developing the report.

PART 5—REDUCE WATER POLLUTION FROM FEDERAL LANDS AND FACILITIES

Sec. 501. Agencies with land, facilities, or installation management responsibilities affecting ten or more acres within the watershed of the Chesapeake Bay shall, as expeditiously as practicable and to the extent permitted by law, implement land management practices to protect the Chesapeake Bay and its tributary waters consistent with the report required by section 202 of this order and as described in guidance published by the EPA under section 502.

Sec. 502. The Administrator of the EPA shall, within 1 year of the date of this order and after consulting with the Committee and providing for public review and comment, publish guidance for Federal land management in the Chesapeake Bay watershed describing proven, cost-effective tools and practices that reduce water pollution, including practices that are available for use by Federal agencies.

PART 6—PROTECT CHESAPEAKE BAY AS THE CLIMATE CHANGES

Sec. 601. The Secretaries of Commerce and the Interior shall, to the extent permitted by law, organize and conduct research and scientific assessments to support development of the strategy to adapt to climate change impacts on the Chesapeake Bay watershed as required in section 202 of this order and to evaluate the impacts of climate change on the Chesapeake Bay in future years. Such research should include assessment of:

(a) the impact of sea level rise on the aquatic ecosystem of the Chesapeake Bay, including nutrient and sediment load contributions from stream banks and shorelines;

(b) the impacts of increasing temperature, acidity, and salinity levels of waters in the Chesapeake Bay;

(c) the impacts of changing rainfall levels and changes in rainfall intensity on water quality and aquatic life;

(d) potential impacts of climate change on fish, wildlife, and their habitats in the Chesapeake Bay and its watershed; and

(e) potential impacts of more severe storms on Chesapeake Bay resources.

PART 7—EXPAND PUBLIC ACCESS TO THE CHESAPEAKE BAY AND CONSERVE LANDSCAPES AND ECOSYSTEMS

Sec. 701. (a) Agencies participating in the Committee shall assist the Secretary of the Interior in development of the report addressing expanded public access to the waters of the Chesapeake Bay and conservation of landscapes and ecosystems required in subsection 202(e) of this order by providing to the Secretary:

- (i) a list and description of existing sites on agency lands and facilities where public access to the Chesapeake Bay or its tributary waters is offered;
- (ii) a description of options for expanding public access at these agency sites;
- (iii) a description of agency sites where new opportunities for public access might be provided;
- (iv) a description of safety and national security issues related to expanded public access to Department of Defense installations;
- (v) a description of landscapes and ecosystems in the Chesapeake Bay watershed that merit recognition for their historical, cultural, ecological, or scientific values; and
- (vi) options for conserving these landscapes and ecosystems.

(b) In developing the report addressing expanded public access on agency lands to the waters of the Chesapeake Bay and options for conserving landscapes and ecosystems in the Chesapeake Bay, as required in subsection 202(e) of this order, the Secretary of the Interior shall coordinate any recommendations with State and local agencies in the watershed and programs such as the Captain John Smith Chesapeake National Historic Trail, the Chesapeake Bay Gateways and Watertrails Network, and the Star-Spangled Banner National Historic Trail.

PART 8—MONITORING AND DECISION SUPPORT FOR ECOSYSTEM MANAGEMENT

Sec. 801. The Secretaries of Commerce and the Interior shall, to the extent permitted by law, organize and conduct their monitoring, research, and scientific assessments to support decisionmaking for the Chesapeake Bay ecosystem and to develop the report addressing strengthening environmental monitoring of the Chesapeake Bay and its watershed required in section 202 of this order. This report will assess existing monitoring programs and gaps in data collection, and shall also include the following topics:

- (a) the health of fish and wildlife in the Chesapeake Bay watershed;
- (b) factors affecting changes in water quality and habitat conditions; and
- (c) using adaptive management to plan, monitor, evaluate, and adjust environmental management actions.

PART 9—LIVING RESOURCES PROTECTION AND RESTORATION

Sec. 901. The Secretaries of Commerce and the Interior shall, to the extent permitted by law, identify and prioritize critical living resources of the Chesapeake Bay and its watershed, conduct collaborative research and habitat protection activities that address expected outcomes for these species, and develop a report addressing these topics as required in section 202 of this order. The Secretaries of Commerce and the Interior shall coordinate agency activities related to living resources in estuarine waters to ensure maximum benefit to the Chesapeake Bay resources.

PART 10—EXCEPTIONS

Sec. 1001. The heads of agencies may authorize exceptions to this order, in the following circumstances:

- (a) during time of war or national emergency;
- (b) when necessary for reasons of national security;

(c) during emergencies posing an unacceptable threat to human health or safety or to the marine environment and admitting of no other feasible solution; or

(d) in any case that constitutes a danger to human life or a real threat to vessels, aircraft, platforms, or other man-made structures at sea, such as cases of *force majeure* caused by stress of weather or other act of God.

PART 11—GENERAL PROVISIONS

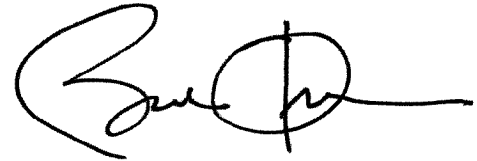
Sec. 1101. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to a department, agency, or the head thereof; or

(ii) functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,
May 12, 2009.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN 5 2009

THE ADMINISTRATOR

MEMORANDUM

SUBJECT: Designating a Senior Representative to Implement Executive Order 13508,
Chesapeake Bay Protection and Restoration

FROM: Lisa P. Jackson, Administrator
Environmental Protection Agency

TO: Thomas J. Vilsack, Secretary
Department of Agriculture

Gary F. Locke, Secretary
Department of Commerce

Robert M. Gates, Secretary
Department of Defense

Janet A. Napolitano, Secretary
Department of Homeland Security

Kenneth L. Salazar, Secretary
Department of Interior

Raymond L. LaHood, Secretary
Department of Transportation

On May 12, 2009, President Obama signed Executive Order 13508, *Chesapeake Bay Protection and Restoration* (please see Attachment A). This Order begins a new era of shared federal leadership, in close collaboration with state partners, for protecting and restoring the health, heritage, natural resources, and social and economic value of the Chesapeake Bay.

The Chesapeake Bay is the largest estuary in the United States and one of the most biologically productive estuaries in the world. Despite significant efforts by federal, state, and local governments and other interested parties, the overall health of the Bay is poor. Restoring the Bay will require a renewed commitment to controlling pollution from all sources as well as

protecting and restoring habitat and living resources, conserving lands, and improving management of natural resources.

The new Executive Order calls for an unparalleled collaboration between federal agencies and departments with unique skills and tools for restoring the health of the Bay. Its directives include:

- a new commitment to coordinated planning and management for the Bay;
- targeting Department of Agriculture and Clean Water Act resources toward restoring the Bay;
- addressing the impacts of a changing climate on the Bay;
- better management of federal lands and facilities to protect the Bay;
- expanded opportunities for public access to Bay waters; and
- stronger environmental monitoring in the Bay.

To carry out these responsibilities, the Order designates me to chair a new "Federal Leadership Committee" that includes each of your Departments. The Committee must immediately begin work. Within 120 days (by September 9, 2009), EPA and the Departments of Agriculture, Defense, Commerce, and Interior must lead or co-lead development of seven draft reports on "key challenges to protecting and restoring the Chesapeake Bay" (see Section 202 in Attachment A). Within another 60 days (by November 8, 2009), these Departments and EPA must issue final "key challenges" reports, and the Federal Leadership Committee must publish a draft strategy for coordinated implementation of existing programs and projects to protect and restore the Bay. Within one year, the Committee must publish a final strategy. The President directs us to begin implementing core elements of our programs and strategies as soon as possible and prior to release of a final strategy.

The Executive Order enumerates additional responsibilities for the Committee and for EPA and named Departments (see Parts 2-9 in Attachment A).

I look forward to working with each of you and your staffs as the Committee moves forward with these challenging tasks. I have attached a timeline describing when we must complete our various responsibilities (see Attachment B).

I have asked Mike Shapiro, my Acting Assistant Administrator for Water (and, when confirmed, my Assistant Administrator for Water) to serve as my designee to guide development of the draft reports and the draft strategy called for in the Executive Order. The Director of EPA's Chesapeake Bay Program Office, Jeff Lape, will provide ongoing management support to the Committee under the Assistant Administrator's direction. My Senior Advisor on the Chesapeake Bay, J. Charles Fox, will help me monitor the process and provide guidance as needed.

EPA will shortly convene the first meeting of the Committee. I ask you, by June 10, 2009, to designate a senior representative to represent you on the Committee. I expect to invite you to personally attend a meeting of the Committee in May 2010 to coincide with next year's

meeting of the Chesapeake Executive Council. In the meantime, I welcome your thoughts and suggestions on the Committee's work as we move forward.

Working together and in close collaboration with state partners, other partners, and stakeholders, I am confident that we will fulfill the President's commitments in the Executive Order. I look forward to gaining the benefit of your agency's skills and wisdom as we meet the challenge and opportunity before us.

If you have any questions, please have your staff contact Jeff Lape at (410) 267-5700 or at *Lape.Jeff@epa.gov*.

Attachments

cc: Nancy Sutley, Chair, Council on Environmental Quality
Sally C. Ericksson, Office of Management and Budget
Mike Shapiro, Acting Assistant Administrator for Water
William Early, Acting EPA Region 3 Administrator
J. Charles Fox, Senior Advisor to the Administrator
Jeff Lape, Director, EPA Chesapeake Bay Program Office



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN 5 2009

THE ADMINISTRATOR

MEMORANDUM

SUBJECT: Implementing the President's New Executive Order on Chesapeake Bay

FROM: Lisa P. Jackson
Administrator

TO: Assistant Administrators
General Counsel
Inspector General
Chief Financial Officer
Chief of Staff
Associate Administrators
William C. Early, Acting Regional Administrator, Region 3

On May 12, 2009, President Obama signed Executive Order 13508, *Chesapeake Bay Restoration and Protection* (please see attachment). This Order begins a new era of shared federal leadership, in close collaboration with state partners, for protecting and restoring the Chesapeake. The Order directs the U.S. Environmental Protection Agency to lead the federal partnership and entrusts the Agency with a number of significant new responsibilities.

Meeting the President's expectations is among my highest priorities for the Agency. Despite significant efforts by federal, state, and local governments and other interested parties, the overall health of the Bay is poor, and water pollution in the Bay remains a significant problem. Restoring the Bay will require a renewed commitment to controlling pollution from all sources as well as protecting and restoring habitat and living resources, conserving lands, and improving management of natural resources. EPA will need to exercise patient but forceful leadership, leveraging the expertise and resources of multiple federal agencies, partnering effectively with states and local governments in the watershed, and using our own authorities creatively and thoughtfully to address water quality challenges that have resisted conventional solutions.

The goals and timeframes in the President's Executive Order are ambitious and require EPA to mobilize immediately to begin meeting our many obligations. EPA will need to be well-organized and focused on accomplishing multiple, demanding tasks. We will need to reach across program boundaries to bring the right skills to bear and achieve a unique level of

cooperation with our agency partners and state and local officials in the watershed. To ensure that EPA meets this challenge, I am directing the following EPA organizations to take the lead and participate in implementing key elements of the Order:

- **Management of the Federal Leadership Committee.** The Order establishes a new Federal Leadership Committee chaired by the EPA Administrator and directs EPA and other federal agencies to develop draft reports on key topics for Bay restoration within four months. The Federal Leadership Committee will then work with states and others to integrate these reports into a single strategy for Bay restoration, to be published in draft form in six months and in final form within one year. The Committee also will develop an annual plan for interagency efforts to restore and protect the Bay.

I am asking the Assistant Administrator for Water to serve as my designee in organizing the new Federal Leadership Committee for the Bay and supporting me in my role as Chair of the Committee. The immediate priority of the Assistant Administrator will be to convene a meeting of the Committee and set in motion preparation of the reports that will form the basis for the integrated strategy. Over time, his role will be to coordinate the efforts of the participating federal agencies, including data management and reporting and fostering strong cross-agency coordination and communication.

I intend to invite my colleagues from the President's Cabinet to a meeting of the Leadership Committee in May 2010 as part of next year's meeting of the Executive Council. The Assistant Administrator will lead preparation for this meeting.

Ongoing management support for the Leadership Committee will be provided by the Director of the Chesapeake Bay Program Office, working under the direction of the Assistant Administrator for Water. Building on the good work of Maryland's BayStat, I am asking the Acting Assistant Administrator for the Office of Environmental Information to assist the Chesapeake Bay Program Office in assuring that data collections by the Committee are coordinated and effective and made transparent to the public.

- **Chesapeake Bay Water Quality Restoration Task Force.** The Order directs EPA to work with state co-regulators and others to develop the next generation of tools and actions to restore water quality in the Bay, including new programs and regulations, where needed. We must develop a draft report outlining these new programs and regulations within four months. I am establishing a new, intra-agency "Chesapeake Bay Water Quality Restoration Task Force" to draft the report describing EPA's new approach for controlling water pollution in the Bay. The Task Force will be managed by the Office of Water and chaired by the Assistant Administrator. It will include senior staff from the Office of Enforcement and Compliance Assurance, the Office of General Counsel, the Office of Air and Radiation, the Office of Policy, Economics, and Innovation, the Chesapeake Bay Program Office, and Region 3.
- **Chesapeake Bay Funding Needs Assessment Workgroup.** As plans for implementing a new generation of water pollution controls for the Chesapeake Bay take shape over the coming months, the costs associated with this work need to be defined. I am asking the

Office of the Chief Financial Officer and Region 3 to lead a new Chesapeake Bay Funding Needs Assessment Workgroup that will identify costs to EPA and state co-regulators. This workgroup should include representatives from the Office of Water, the Office of Enforcement and Compliance Assurance, the Office of Air and Radiation, the Office of Policy, Economics, and Innovation, and the Chesapeake Bay Program Office.

The Executive Order includes specific commitments for consultations with state and local governmental partners involved with the Chesapeake Bay Program. It is my expectation that the Water Quality Restoration Task Force, in particular, will consult extensively with the states, the District of Columbia, and the Chesapeake Bay Commission, beginning immediately. In addition, it is my expectation that the Chesapeake Bay Program staff will conduct outreach to interested organizations and individuals, including those engaged with conservation, agriculture, and land development. I am separately sharing our plans with members of the Chesapeake Bay Executive Council and their senior staff to encourage maximum collaboration as we meet our responsibilities under the Executive Order.

I ask senior managers in all of the offices assigned to lead or participate in these new projects to do everything that you can to help make this critical effort a success. J. Charles Fox, my Senior Advisor on the Chesapeake Bay and Anacostia River, will advise me on implementation of the Executive Order and continue to coordinate within EPA and with external partners. He is available to answers your questions and provide guidance as needed.

Over the next several years, we have an opportunity to renew EPA's long-standing commitment to the health of the Chesapeake Bay and to get back on track toward restoring the Bay in the near-term. In addition, I hope that the new tools and actions that we develop for restoring the Bay will become a model for efforts to restore the health of other large aquatic ecosystems around the country.

Thank you for your help with this important project.

Attachment

cc: J. Charles Fox, Office of the Administrator
Bob Sussman, Senior Policy Counsel to the Administrator
Jeff Lape, Chesapeake Bay Program Office
Regional Administrators
Water Division Directors, Regions 1-10
Large Aquatic Ecosystem Program Managers